REMARKS/ARGUMENTS

Claims 1-23 and 25 to 27 are pending in this application.

Claims 5-8, 14-17 and 23 are allowed.

Claims 1-4, 9-13, 18-22 and 25-27 are rejected under 35 U.S.C. 103(a).

35 U.S.C. 103(a) rejection

Claims 1-4, 9-12, 18, 20-21 and 26-27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ericsson, Motorola, Siemens, Nokia Technical Specification (Push to Talk over Cellular (PoC); User Requirements; PoC Release 1.0; User Requirements V 1.1.1 (2003-10) hereinafter, "Ericsson") in view of Wolf et al. (U.S PUB. 2004/0005904 hereinafter, "Wolf").

Claims 13, 19, 22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ericsson, Motorola, Siemens, Nokia Technical Specification (Push to Talk over Cellular (PoC); User Requirements; PoC Release 1.0; User Requirements V 1.1.1 (2003-10) hereinafter, "Ericsson") in view of Wolf and further in view of Griffiths (U.S PUB. 2002/0186827).

Applicant respectfully traverses these rejections for the reasons that follow.

The Supreme Court in *KSR International Co. v. Teleflex Inc. (KSR)*, 82 USPQ2d 1385 (2007) reaffirmed the framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)). Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the Court are as follows:

(A) Ascertaining the scope and content of the prior art; and
(B) Ascertaining the differences between the claimed invention and the prior art; and
(C) Resolving the level of ordinary skill in the pertinent art.

Scope and content of the prior art

With respect to independent claims 1 and 10 of the present application, the Examiner has admitted that Ericsson does not explicitly show selectively and automatically overriding DnD functionality for the requested walkie-talkie-like communications session based on an ignore DnD attribute for the user device applied to a criterion or condition of the talk request other than a user device identifier.

The Examiner cites Wolf as disclosing the features of claims 1 and 10 which he admits are not disclosed in Ericsson. Applicant respectfully submits that the Examiner has erred in his determination of the scope and content of Wolf. The cited portions of Wolf state:

> Another embodiment of the present invention encompasses a method for establishing a prioritized multi-party communication session in a wireless communication system. The method includes steps of receiving a request to establish a second multiparty communication session involving a second talkgroup and determining whether an MS affiliated with the second talkgroup is engaged in a first multi-party communication session associated with a first talkgroup. The method further includes steps of determining a priority of the first talkgroup relative to a priority of the second talkgroup; and, based on the determined priority of the first talkgroup relative to the priority of the second talkgroup, determining whether to interrupt the participation of the MS in the first multi-party communication session.

> In the prior art, when a group call is initiated by an MS, a Group Call Controller determines a talkgroup associated with the group call by reference to a VLR or an HLR. The Group Call Controller then conveys a page to the talkgroup members, that is, the MSs affiliated with the talkgroup. The page includes a talkgroup identifier associated with the talkgroup. When an MS is not otherwise engaged in an active communication, the MS responds to the page and is coupled to the

talkgroup call. When the MS is engaged in an active communication at the time the MS is paged, the user of the MS does not respond to the page and is not coupled to the call. However, a user of an MS may desire to be interrupted when a higher priority group call is initiated while the user is participating in lower priority group call, or to not be interrupted when the user of the MS is participating in higher priority call and a lower priority call is initiated. In order to allow an MS, such as MSs 101-108, to be alerted to a higher priority group call when engaged in a lower priority group call and to not be alerted to a lower priority group call when engaged in a higher priority group call, communication system 100 provides a method and apparatus for prioritizing talkgroups and interrupting a group call based on talkgroup prioritization.

As can be seen, the cited portions (or any other part of Wolf) make no mention of DnD functionality, let alone selectively and automatically overriding such functionality based on an ignoreDnD attribute for the user device. Furthermore, Wolf makes no mention of walkie-talkie-like communications. Wolf deals with interrupting a multi-party communication session if a request for a higher priority session is received. There is no mention of DnD functionality for user devices or overriding such a functionality. The only factors considered in Wolf is whether or not the invitee is currently engaged in a multi-party session and if the first talk group is of a higher or lower priority than that second talk group. Thus, Wolf discloses interrupting a multi-party communication session and not overriding a DnD function.

With respect to independent claim 20, the Examiner also has admitted that Ericsson does not explicitly show that a user interface adapted to accept an external input to modify an ignoreDnD attribute for the user device the ignoreDnD attribute concerning a criterion or condition of a talk request other than a user device identifier.

The Examiner cites the same two paragraphs of Wolf as disclosing this feature. While Wolf may disclose a user interface, the user interface is not adapted to accept an external input to modify an ignoreDnD attribute, as there is no disclosure in Wolf of such an attribute.

Furthermore, the Examiner has admitted, with respect to claim 13, that Ericsson and Wolf, in combination, fail to teach the ignoreDnD attribute comprises an ignoreDnD flag and at least one predetermined ignore reason value, and wherein the ignoreDnD processing function selectively overrides said DnD functionality as a function of the ignoreDnD flag and the at least one predetermined ignore reason value.

The Examiner cites Griffiths as disclosing these features. The cited portion of Griffiths states:

> If "1#" has not been entered by the caller, the CAS processor 290 determines whether a bypass code has been entered in step 540 and checks the validity of the bypass code in step 545. The validity check is performed by the CAS processor 290 by comparing the caller-entered bypass code to the at least one bypass code stored in CAS storage database 280 as subscriber provisioning information. Various embodiments of the call administration service include entry mechanisms for the bypass code of at least one of DTMF, voice and speech input, where voice input is speaker specific, but speech input is not speaker specific. Both voice and speech recognition processing may be implemented in embodiments using commercial off the shelf voice and speech recognition software. If the correct bypass code has been entered by the caller, then in step 550 the CAS processor 290 presents an announcement that the call is connecting, and connects the incoming call to the subscriber in step 555.

Griffiths is also cited as disclosing a talk request processing system, a user interface display and a computer readable medium (claims 19, 22 and 25). The Applicant does not concede that all of the features of these dependent claims are disclosed in Griffiths. In any event, Griffiths does not cure the deficiencies on Ericsson and Wolf.

With respect to dependent claim 12, while the cited portions of Ericsson do disclose a data store, the disclosed data store is not adapted to store in ignoreDnD attribute. The disclosed data store is

for storing a contact list for the user device, from which a user can select a contact with the purpose of initiating a talk request.

Applicant further submits that Ericsson fails to disclose an ignoreDnD attribute (claims 1, 3, 4, 9, 10 and 18) for the user device or an ignoreDnD attribute request generator (claim 20), for at least the reasons given in our response of June 6, 2008. There is no discussion or suggestion in Ericsson of such an attribute for a user device or generating a request to update such an attribute. Likewise, with respect to claim 3, Applicant submits that the cited portion of Ericsson does not disclose an ignoreDnD flag. The only flag mentioned in the cited portion is the "auto answer mode flag".

As for claim 4, the Examiner has cited page 6 [0078] and no such citation exists in Ericsson. Applicant believes the Examiner intended to refer to Griffiths, which also does not disclose the features claimed.

In any event, for at least the reasons given above and in our last response, it is submitted that the Examiner made an error in analyzing the scope and content of the prior art.

Differences between the claimed invention and the prior art

For the reasons given above, it is submitted that neither Ericsson, Wolf nor Griffiths disclose an ignoreDnD functionality for a device upon which selective override of DnD functionality is based, as claimed in independent claims 1, 10 and 12. Furthermore, neither of these references discloses automatic selective override of DnD functionality.

Therefore, Applicant respectfully submits that the subject matter of independent claims 1, 10 and 12, together with all claims dependent thereon is not disclosed in the combination of Ericsson, Wolf and Griffiths.

Person skilled in the art

The Examiner has not made any determination with respect to the person skilled in the relevant art.

Presumably, the Examiner considered that a person skilled in the art would combine Wolf with Ericsson. It is respectfully submitted that this is an error. As mentioned above, Wolf does not disclose walkie-talkie-like communications or DnD functionality in such communications. It is submitted that walkie-talkie-like communications and DnD functionality for such communications have distinct technical characteristics that are not easily applied to other types of communications and therefore, there would be no motivation to combine Wolf with Ericsson. Even if a person skilled in the art was aware of both references, it is submitted that the invention claimed in the present application would not have been obvious to such a person.

Conclusion

For at least the reasons given above, it is respectfully requested that the rejections under 35 U.S.C. 103(a) be withdrawn.

In view of the foregoing, favourable consideration and allowance of this application is respectfully requested.

Respectfully submitted,

HAO XUE, ET AL.

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KLM:lme
Encl.